

ORIGINAL

LARA R. SHAPIRO (State Bar No. 227194)
4145 Via Marina # 324
Marina del Rey, CA 90292
Telephone: (310) 577-0870
Facsimile: (424) 228-5351

FILED

OCT 22 2010

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Of Counsel to
Lemberg & Associates LLC
A Connecticut Law Firm
1100 Summer Street
Stamford, CT 06905
Telephone: (203) 653-2250
Facsimile: (203) 653-3424

Attorneys for Plaintiff,
DeAndrea Savage

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DeAndrea Savage,

Plaintiff,

vs.

Chase Receivables; and
DOES 1-10, inclusive,

Defendants.

Case No.: 10-cv-4585-CRB

FIRST AMENDED COMPLAINT

FILE BY FAX

1 For this Complaint, the Plaintiff, DeAndrea Savage, by undersigned counsel,
2 states as follows:
3

4 **JURISDICTION**

5 1. This action arises out of Defendants' repeated violations of the Fair Debt
6 Collection Practices Act, 15 U.S.C. § 1692, et seq. ("FDCPA"), and the invasions of
7 Plaintiff's personal privacy by the Defendants and its agents in their illegal efforts to
8 collect a consumer debt.
9

10 2. Supplemental jurisdiction exists pursuant to 28 U.S.C. § 1367.

11 3. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), in that
12 Defendants transact business here and a substantial portion of the acts giving rise to
13 this action occurred here.
14

15 **PARTIES**

16 4. The Plaintiff, DeAndrea Savage (hereafter "Plaintiff"), is an adult
17 individual residing in Savannah, Georgia, and is a "consumer" as the term is defined
18 by 15 U.S.C. § 1692a(3).
19

20 5. Defendant, Credit Bureau of Napa County, Inc., doing business as Chase
21 Receivables, Inc (hereafter "Chase"), is a California business entity with an address of
22 1247 Broadway, Sonoma, California 95476, operating as a collection agency, and is a
23 "debt collector" as the term is defined by 15 U.S.C. § 1692a(6).
24

25 6. Does 1-10 (the "Collectors") are individual collectors employed by
26 Chase and whose identities are currently unknown to the Plaintiff. One or more of the
27
28

1 Collectors may be joined as parties once their identities are disclosed through
2 discovery.
3

4 7. Chase at all times acted by and through one or more of the Collectors.
5

6 **ALLEGATIONS APPLICABLE TO ALL COUNTS**

7 **A. The Debt**
8

9 8. The Plaintiff incurred a financial obligation in the approximate amount of
10 \$148.00 (the "Debt") to Verizon (the "Creditor").
11

12 9. The Debt arose from services provided by the Creditor which were
13 primarily for family, personal or household purposes and which meets the definition
14 of a "debt" under 15 U.S.C. § 1692a(5).
15

16 10. The Debt was purchased, assigned or transferred to Chase for collection,
17 or Chase was employed by the Creditor to collect the Debt.
18

19 11. The Defendants attempted to collect the Debt and, as such, engaged in
20 "communications" as defined in 15 U.S.C. § 1692a(2).
21

22 **B. Chase Engages in Harassment and Abusive Tactics**

23 12. Chase called the client numerous times per day in an attempt to collect
24 the Debt with the intent to harass.
25

26 13. On numerous occasions, Chase disconnected the call while the Plaintiff
27 was speaking.
28

1 14. Chase called the Plaintiff numerous times between the hours of 9:00 PM
2 and 8:00 AM.

3
4 15. Chase was rude and abusive when speaking to the Plaintiff.

5 16. Chase failed to identify themselves as debt collectors when speaking to
6 the Plaintiff.

7
8 **C. Plaintiff Suffered Actual Damages**

9
10 17. The Plaintiff has suffered and continues to suffer actual damages as a
11 result of the Defendants' unlawful conduct.

12
13 18. As a direct consequence of the Defendants' acts, practices and conduct,
14 the Plaintiff suffered and continues to suffer from humiliation, anger, anxiety,
15 emotional distress, fear, frustration and embarrassment.

16
17 19. The Defendants' conduct was so outrageous in character, and so extreme
18 in degree, as to go beyond all possible bounds of decency, and to be regarded as
19 atrocious, and utterly intolerable in a civilized community.

20
21 **COUNT I**

22 **VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT**

23 **15 U.S.C. § 1692, et seq.**

24
25 20. The Plaintiff incorporates by reference all of the above paragraphs of this
26 Complaint as though fully stated herein.

1 21. The Defendants contacted the Plaintiff at a place and during a time
2 known to be inconvenient for the Plaintiff, in violation of 15 U.S.C. § 1692c(a)(1).
3

4 22. The Defendants contacted the Plaintiff before 8:00 a.m. and after 9:00
5 p.m., in violation of 15 U.S.C. § 1692c(a)(1).
6

7 23. The Defendants used profane and abusive language when speaking with
8 the consumer, in violation of 15 U.S.C. § 1692d(2).
9

10 24. The Defendants caused a phone to ring repeatedly and engaged the
11 Plaintiff in telephone conversations, with the intent to annoy and harass, in violation
12 of 15 U.S.C. § 1692d(5).
13

14 25. The Defendants employed false and deceptive means to collect a debt, in
15 violation of 15 U.S.C. § 1692e(10).
16

17 26. The foregoing acts and omissions of the Defendants constitute numerous
18 and multiple violations of the FDCPA, including every one of the above-cited
19 provisions.
20

21 27. The Plaintiff is entitled to damages as a result of the Defendants'
22 violations.
23

COUNT II

VIOLATION OF THE ROSENTHAL FAIR DEBT COLLECTION 25 PRACTICES ACT, Cal. Civ. Code § 1788 et seq.

26 28. The Plaintiff incorporates by reference all of the above paragraphs of this
27 Complaint as though fully stated herein.
28

1 29. The Rosenthal Fair Debt Collection Practices Act, California Civil Code
2 section 1788 et seq. ("Rosenthal Act") prohibits unfair and deceptive acts and
3 practices in the collection of consumer debts.
4

5 30. Chase, in the regular course of business, engages in debt collection and is
6 a "debt collector" as defined by Cal. Civ. Code § 1788.2(c).
7

8 31. The Defendants threatened physical force and violence, or other criminal
9 means, to physically harm the Plaintiff, in violation of Cal. Civ. Code § 1788.1(a).
10

11 32. The Defendants used obscene and profane language when speaking with
12 the Plaintiff, in violation of Cal. Civ. Code § 1788.11(a).

13 33. The Defendants caused a telephone to ring repeatedly and engaged the
14 Plaintiff in continuous conversations with an intent to annoy the Plaintiff, in violation
15 of Cal. Civ. Code § 1788.11(d).
16

17 34. The Defendants communicated with the Plaintiff with such frequency as
18 to be considered harassment, in violation of Cal. Civ. Code § 1788.11(e).
19

20 35. The Defendants failed to comply with the provisions of 15 U.S.C.
21 § 1692, *et seq.*, in violation of Cal. Civ. Code § 1788.13(e).
22

23 36. The Defendants did not comply with the provisions of Title 15, Section
24 1692 of the United States Code, in violation of Cal. Civ. Code § 1788.17.

25 37. The Plaintiff is entitled to damages as a result of the Defendants'
26 violations.
27
28

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff prays that judgment be entered against the

Defendants:

A. Actual damages pursuant to 15 U.S.C. § 1692k(a)(1) against the

Defendants;

B. Statutory damages of \$1,000.00 pursuant to 15 U.S.C. §1692k(a)(2)(A)

against the Defendants;

C. Costs of litigation and reasonable attorney's fees pursuant to 15 U.S.C.

§ 1692k(a)(3) against the Defendants;

D. Actual damages pursuant to Cal. Civ. Code § 1788.30(a);

E. Statutory damages of \$1,000.00 per violation for knowingly and

willfully committing violations pursuant to Cal. Civ. Code

§ 1788.30(b);

F. Statutory damages pursuant to 47 U.S.C. § 227(b)(3)(B) & (C);

G. Actual damages from the Defendants for the all damages including

emotional distress suffered as a result of the intentional, reckless, and/or

negligent FDCPA violations and intentional, reckless, and/or negligent

invasions of privacy in an amount to be determined at trial for the

Plaintiff;

H. Punitive damages; and

I. Such other and further relief as may be just and proper.

TRIAL BY JURY DEMANDED ON ALL COUNTS

DATED: October 22, 2010

LARA SHAPIRO

By: /s/ Lara R. Shapiro

Lara R. Shapiro

Attorney for Plaintiff
DeAndrea Savage